

REMARKS

I. Claim Rejections Under 35 U.S.C. §103

Requirements for Prima Facie Obviousness

The obligation of the examiner to go forward and produce reasoning and evidence in support of obviousness is clearly defined at M.P.E.P. §2142:

"The examiner bears the initial burden of factually supporting any prima facie conclusion of obviousness. If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness."

The U.S. Supreme Court ruling of April 30, 2007 (KSR Int'l v. Teleflex Inc.) states:

"The TSM test captures a helpful insight: A patent composed of several elements is not proved obvious merely by demonstrating that each element was, independently, known in the prior art. Although common sense directs caution as to a patent application claiming as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the art to combine the elements as the new invention does."

"To facilitate review, this analysis should be made explicit."

The U.S. Supreme Court ruling states that it is important to identify a

reason that would have prompted a person to combine the elements and to make that analysis explicit. MPEP §2143 sets out the further basic criteria to establish a *prima facie* case of obviousness:

1. a reasonable expectation of success; and
2. the teaching or suggestion of all the claim limitations by the prior art reference (or references when combined).

It follows that in the absence of such a *prima facie* showing of obviousness by the Examiner (assuming there are no objections or other grounds for rejection) and of a *prima facie* showing by the Examiner of a reason to combine the references, an applicant is entitled to grant of a patent. Thus, in order to support an obviousness rejection, the Examiner is obliged to produce evidence compelling a conclusion that the basic criterion has been met.

Bladwin in view of Bristor

Office action asserted that Claims 1, 7-8, 12, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPG Pub, 2003/0149752, Baldwin et al. (Baldwin hereinafter) in view of USP, 5,778,387, David M. Bristor. (Bristor hereinafter).

Applicant strongly disagrees with the Office Action assessment. The Applicant wishes to reiterate the arguments set forth in the previous Office Action with respect to the currently amended claims. Furthermore, Applicant respectfully submits that currently amended claim 1 is patentable over Baldwin and Bristor for the following reasons.

Office Action acknowledged that Baldwin does not teach “automatically saving said desired data in said memory of said data- processing system, in response to identifying said desired data from said command line interface” “testing using said system to determine if said desired data has been deleted from said

command line of said command line interface," "automatically recovering said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being deleted from said command line of said command line interface" and "automatically displaying said deleted data within said command line interface, in response to automatically recovering said desired data from said memory."

Applicant disagrees with Office action assertion that Bristor teaches "testing using said system to determine if said desired data has been deleted from said command line of said command line interface and automatically recovering said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being deleted from said command line of said command line interface (see col. 2, lines 61-67, col. 3, lines 1-19 and col. 8, lines 44-50, Bristor)".

Office Action recites in the "Response to Arguments" that:

In these lines Bristor teaches commands, which examiner interprets as the claimed desired data, which is displayable on the command line interface 102. These commands are stored in a history database. When these commands are deleted from the interface, they are automatically retrieved from the history database by use of history buttons or by pressing arrow keys to regenerate previously generated data/commands. Therefore examiner interprets the automatic retrieval of commands by use of history button or arrow keys as claimed recovering of desired data when it is not present in the interface 102.

As clearly acknowledged by the Office Action, Bristor teaches retrieving data by use of history buttons or by pressing arrow keys. Consequently, Bristor simply cannot teach a method in a data-processing system for recovering data including **automatically recovering** said desired data from said memory of said data-processing system for display within said command line interface **in response to said desired data being deleted** from said command line of said command line

interface. Bristor teaches a method of retrieving data in response to a user **manually** pressing buttons or arrow keys to recover data. Consequently, the method **cannot** therefore be automatically recovering data in response to the desired data being deleted. If Bristor disclosed a method automatically recovering said desired data from said memory of said data-processing system for display within said command line interface in response to said desired data being deleted from said command line of said command line interface, there would no need for the user to manually retrieve data by pressing keys or buttons as disclosed in Bristor. Retrieval is either automatic or manual. In Bristor it is manual, in the claimed method it is automatic.

Applicant has amended claim 1 in order to further clarify the aforementioned automated technical feature of the claimed method. Applicant respectfully submits therefore that Bristor does not teach a method of data processing including automatically recover said desired data from said memory for display within said command line interface in automatic response by said system to said desired data being deleted from said command line of said command line interface, as now claimed.

Furthermore, as acknowledged by the Office Action in relation to claim 7, Baldwin does not explicitly teach "the permitting a user to specify a plurality of rules for determining whether to recycle said data; recycling said data, in response to user input."

Office Action asserted that Bristor teaches the steps of: permitting a user to specify a plurality of rules for recycling said data; recycling said data, in response to user input (see col. 6, lines 16-18 and 25-28, Bristor).

Applicant strongly disagrees with this assertion because the passages relied on by the Office do not, in fact, teach "the permitting a user to specify a plurality of rules for determining whether to recycle said data; recycling said data, in response

to user input." Instead col. 6, lines 16-18 of Bristor relied on by the Office action recites the following:

"..particular letter of the alphabet . User data stored in the history database in one or more categories according to symbols used to describe the user data....."

Lines 25-28 of col. 6 of Bristor relied on by the Office Action recite:

"..example, the c-shell command "Is-F1 allmystuff.*|more" is parsed into components "Is," "allmystuff.*," and "more" and is made the item of respective menus associated with the letters "L," "A," and "M," respectively."

Applicant respectfully submits that the aforementioned passages relied on by the Office Action do not refer, either explicitly or implicitly, to a method for processing data in which data is being recycled. The person of ordinary skill in the art would understand that recycling data means that the data, files etc., which are no longer useful, are re-used for some other application. Paragraph [0032] of the present application clearly supports this meaning. There is nothing disclosed in the aforementioned passages that refers, either explicitly or implicitly, to re-using or recycling information, that is, reusing data that is no longer useful. Baldwin is merely referring to categorizing data using symbols and nothing more.

Applicant has amended the claims to clarify that the method of data processing includes permitting a user to specify a plurality of rules for recycling data that the user does not wish to recover; and recycling said deleted data according to said rules. Also, claim 2 and corresponding claim 13 have been amended to reflect that the method of data processing further includes automatically recycling said file when said file does not contain useful information. Applicant respectfully submits that neither Bristor nor Baldwin disclose such features, either taken alone or in combination.

Having regard to the foregoing, Applicant submits that the currently amended claims are patentable over Baldwin in view of Bristor. Applicant respectfully requests that the rejection to Claims 1, 7-8, 12, and 16-17 under 35 U.S.C. 103(a) as being unpatentable over Baldwin in view Bristor be withdrawn.

Baldwin in view of Bristor in view of Smith

Office Action rejected claims 2-6 and 13-15 under 35 U.S.C. 103(a) as being unpatentable over USPG Pub, 2003/0149752, Baldwin et al. in view of USP, 5,778,387, David M. Bristor. as applied to claims 1, 7-8, 12, and 16-17, further in view of (NPL "Using the TSM client command line interface for backup and restore" 2002), Ian Smith (Smith hereinafter).

Applicant disagrees with this assessment. For the reasons already set forth above, Baldwin and Bristor do not teach or suggest the features of the currently amended claims. Furthermore, Applicant respectfully submits that none of the cited references, taken alone or in combination, teach or suggest combining the elements in the way the currently amended claims do.

II. Conclusion

In view of the foregoing discussion, Applicant has requested continued examination of the application. Applicant has responded to each and every rejection of the Official Action. The Applicant has clarified the structural distinctions of the present invention by amendments herein. The foregoing discussion and amendments do not present new issues for consideration and no new search is necessitated. Such amendments are supported by the specification and do not constitute new matter. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejections and further examination of the present application.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,

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